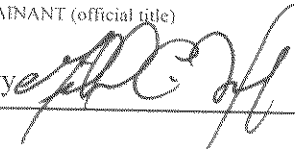



United States District Court		DISTRICT Eastern District of Pennsylvania	
UNITED STATES OF AMERICA v. RAPHEAL F. MCNAMARA-HARVEY		DOCKET NO. MAGISTRATE'S CASE NO. 10-79-M	
Complaint for violation of Title 26, United States Code, Section 5861(d), and Title 18, United States Code, Section 922(g)(1).			
NAME OF JUDGE OR MAGISTRATE Honorable Carol Sandra Moore Wells		OFFICIAL TITLE United States Magistrate Judge	LOCATION Philadelphia, PA
DATE OF OFFENSE December 30, 2009	PLACE OF OFFENSE Philadelphia, PA	ADDRESS OF ACCUSED (if known) 220 N. 10th Street Philadelphia, PA 19107	
COMPLAINANT'S STATEMENT OF FACTS CONSTITUTING THE OFFENSE OR VIOLATION: On or about December 30, 2009, Rapheal F. McNamara-Harvey possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record, in violation of Title 26, United States Code, Section 5861(d); and On or about December 30, 2009, Rapheal F. McNamara-Harvey after having been convicted of a felony punishable by more than one year in prison possessed a firearm in or affecting interstate commerce, in violation of Title 18, United States Code, Section 922(g)(1).			
BASIS OF COMPLAINANT'S CHARGE AGAINST THE ACCUSED: SEE AFFIDAVIT ATTACHED HERETO.			
MATERIAL WITNESSES IN RELATION AGAINST THE ACCUSED: SEE AFFIDAVIT ATTACHED HERETO.			
Being duly sworn, I declare that the foregoing is true and correct to the best of my knowledge.		SIGNATURE OF COMPLAINANT (official title) Michael Haggerty  OFFICIAL TITLE Alcohol, Tobacco, Firearms and Explosives	
Sworn to before me and subscribed in my presence.			
SIGNATURE OF MAGISTRATE (1)  Honorable Carol Sandra Moore Wells, United States Magistrate Judge		DATE January 13, 2010	

(1) See Federal Rules of Criminal Procedure rules 3 and 54.

AFFIDAVIT

Your affiant, Michael Haggerty, being duly sworn, affirms as follows:

I. BACKGROUND AND INITIAL INVESTIGATION.

1. I am a Special Agent with the United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I have been employed as a Special Agent with ATF for over ten years, and I have over eighteen years of federal law enforcement experience. I am a graduate of the Federal Law Enforcement Training Center and the ATF National Academy. I am currently assigned to the Philadelphia Division Group II Arson and Explosives Field Office. I have been assigned to this group for almost eight years. I have participated in numerous cases that involve arson and explosives. This affidavit is based on my personal knowledge and observations, as well as those of other ATF and FBI agents, and other law enforcement officials, and is believed by me to be true.

2. This affidavit is submitted in support of an application for a complaint warrant to arrest Raphael McNAMARA-HARVEY (McNAMARA) for violating Title 18, United States Code, Section 922 (g)(1) (convicted felon in possession of a firearm), and Title 26, United States Code, Section 5861(d) (possession of an unregistered destructive device). The information contained in this affidavit is based upon my personal observations and investigation, information relayed to me by other special agents or other law enforcement agents, as well as official reports of law enforcement agencies. I have not included every fact known to me concerning this investigation, rather I have submitted only those facts and circumstances that I believe establish probable cause to support the issuance of an arrest warrant.

3. On Wednesday, December 30, 2009, at approximately 11:00 a.m., security personnel for pharmaceutical and consumer health care corporation GlaxoSmithKline (GSK)

encountered an individual who appeared to be a homeless male trespassing and residing at a corporate owned garage located at 401 North 16th Street in Philadelphia, Pennsylvania. The GSK and the garage were closed at the time due to the holiday.

4. After confronted by GSK security, the male provided GSK security with his Pennsylvania identification card (PA ID). The card identified the male as Rapheal F. McNAMARA-HARVEY (hereinafter McNAMARA), date of birth August 24, 1982, and an address of 1437 Gwynedale Way, Lansdale, Pennsylvania, 19446. (On the PA ID card, his name is spelled "Rapheal", other places it is spelled "Raphael.").

5. GSK personnel immediately notified the Philadelphia Police Department, however the male escaped prior to the arrival of the police. Although the male did retrieve one of his bags prior to fleeing, he left behind several other bags containing personal possessions including clothes, personal care items, literature, and an HP laptop computer.

6. During a search of the area where the male was located, which was close proximity to an exterior back-up generator for the garage, police found what was believed to be an improvised incendiary device, comprised of a 12 ounce glass beer bottle with a grey/black material on the top and a shoe-string type wick, along with the odor of gasoline (hereinafter "Device"). The ATF's City-Wide Arson Task Force responded along with members of the JTTF.

7. ATF laboratory tests indicate that the Device contained gasoline and had polystyrene in it. The ATF laboratory personnel indicated that the polystyrene/gasoline mixture is commonly known as improvised napalm. Your affiant believes, based on my training and experience, that the Device is a destructive device as defined in Title 26, United States Code, Section 5845(f). However your affiant is currently awaiting confirmatory tests from the ATF Laboratory.

8. GSK security personnel provided to ATF a copy of GSK video surveillance of the GSK garage which shows McNAMARA carrying a 12 ounce beer bottle, consistent with the type the improvised incendiary device was made of.

9. Through investigation, your affiant has determined McNAMARA is not currently and has not in the past been registered with the National firearms Registration and Transfer Record to possess a destructive device.

10. Your affiant has reviewed McNAMARA'S criminal history and has determined that on January 27, 2006, in the Superior Court of Monmouth County, New Jersey McNAMARA was found Guilty of one count each of aggravated assault in the 3rd degree, knowingly receiving stolen property, and eluding police while causing a substantial risk of physical injury, all felony convictions with a maximum term of five years. McNAMARA was also found Guilty of one count each of aggravated assault in the 4th degree and resisting arrest, both felony convictions with a maximum term on eighteen months.

11. On or about July 5, 2001, in the Montgomery County Court of Common Pleas, McNAMARA was found Guilty of one count of criminal conspiracy - engaging in criminal trespass to enter a structure, a felony conviction with a maximum term of two years.

12. Your affiant has determined that at least one of the component parts to the destructive device, that is the bottle, was manufactured outside of the commonwealth of Pennsylvania therefore by virtue of its presence here in the Commonwealth of Pennsylvania, it traveled through the channels of interstate commerce.

II. APPLICABLE STATUTES


13. Title 18, United States Code, Section 922(g)(1) makes it a crime for a convicted felon to possess a firearm. Title 18, United States Code, Section 921(a)(3) defines the term

“firearm” to include a destructive device.

14. Title 26, United States Code, Section 5861(d) provides in relevant part, that “It shall be unlawful for any person - to receive or possess a firearm which is not registered to him in the National Firearms Registration and Transfer Record.”

III. CONCLUSION

15. Based upon the aforementioned facts stated herein, the affiant submits that there is probable cause to believe that Raphael McNAMARA-HARVEY has violated Title 18, United States Code, Section 922 (g) (1) and Title 26, United States Code, Section 5861(d).



Michael Haggerty
Special Agent
Bureau of Alcohol, Tobacco, Firearms and
Explosives

Sworn to me this 13th
day of January, 2010



Honorable Carol Sandra Moore Wells
United States Magistrate Judge